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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/801,182	03/06/2001	John Philipson	35682-8002US	4103

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EXAMINER

TOOMER, CEPHIA D

ART UNIT

PAPER NUMBER

1714

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/801,182	PHILIPSON, JOHN	
	Examiner	Art Unit	
	Cephia D. Toomer	1714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-6,9-23,27-29,33-42 and 44-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,9-23,27-29,33-42 and 44-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 18, 2004 has been entered.
2. This Office action is in response to the amendment filed October 18, 2004 in which claims 1, 3, 4, 9-15, 17-19, 27-28, 33-35, 38, 39, 41 and 42 were amended, claims 2, 7, 8, 25, 26, 30-32 and 43 were canceled and claims 44-50 were added.
3. The previous rejection of the claims under 35 USC 112, first paragraph is withdrawn in view of the amendment to the claims.
4. The rejection of the claims under 35 USC 103 over Howard, Schultz, and Benson is withdrawn in view of the amendment to the claims and applicant's arguments.
5. Claim 42 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. ***.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 1, 18, 50 and their dependents are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 1 and 18 are rejected because the specification does not support the limitation that the municipal waste is "substantially free of glass, metals, plastics and paper." All recitations regarding these materials state that the waste is free of these materials.

8. Claims 18 and 50 are rejected because the term reducing is broader than claimed and disclosed "shredding and pulverizing". The fluff could be formed by vigorously mixing the waste with water therefore reducing the size of the water, and then drying the waste.

9. Claim 18 is rejected because the specification does not support the language "before and/or after (b)."

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1, 3-6, 9-17, 44 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sprules (US 6,113,662).

Sprules teaches a fuel pellet comprising at least 50% spent dried coffee grounds (municipal solid waste), a combustible wax (hydrocarbon material), a coking agent and/or a cellulose material (wood, leaves, etc) (see abstract; col. 2, lines 50-52, 64-66; col. 3, lines 37-44; col. 10, lines 39-59).

Sprules teaches that coffee grounds are clean burning and is less likely to produce polycyclic aromatic hydrocarbons during combustion (see col. 3, lines 24-36). Sprules teaches that the use of coffee grounds as a fuel source diverts waste from landfills (see col. 3, lines 61-63).

Table 1 shows that the coffee grounds have a heat value of 10,218 BTU/lb, moisture of 2.09 and ash content of 0.84wt%. Table 4 shows that the wax has a heating value of 18,000 BTU and wood has a heating value of 8,000 BTU. Sprules teaches the limitations of the claims other than the differences that are discussed below.

In the first aspect, Sprules differs from the claims in that he does not specifically teach the heating value of the fuel pellet. However, it would have been obvious to one of ordinary skill in the art to produce a fuel pellet possessing a fuel value of 10,000-14,000 BTU (claims 1 and 11-13) because Sprules teaches that the coffee grounds have a fuel value of 10,000 BTU, the wax has a heating value of 18,000 BTU and wood has a heating value of 8,000. Given these values and Sprules teaching that the fuel pellet contains at least 50% of the coffee ground, it would have been obvious to one of

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ordinary skill in the art to optimize these result effective variables to obtain fuel pellets that produce a hotter, cleaner burning fuel that releases fewer harmful pollutants and provides a brighter flame over a longer period of time (see abstract; Tables 1-4).

In the second aspect, Sprules differs from the claims in that he does not teach the emissions properties of claim 9. However, given that Sprules teaches fuel pellets that contain no hazard waste, it would be reasonable to expect that the fuel pellets emissions would possess similar properties, absent evidence to the contrary.

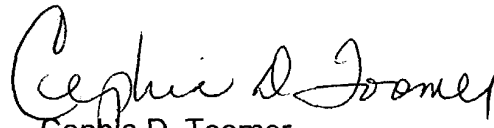
In the third aspect, Sprules differs from the claims in that he does not specifically teach the size and shape of the fuel pellets. However, it is well settled that changes in size/proportions and shape is prima facie obvious if the claimed products do not perform differently from the prior art. In the instant case, the fuel pellets of the present invention perform the same function as the fuel pellets of Sprules. See MPEP 2144.04 IV(A and B).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cephia D. Toomer whose telephone number is 571-272-1126. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Cepha D. Toomer
Primary Examiner
Art Unit 1714

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